

Panaji, 31st July, 1986 (Sravana 9, 1908)

SERIES I No. 18

OFFICIAL GAZETTE



GOVERNMENT OF GOA, DAMAN AND DIU

GOVERNMENT OF GOA, DAMAN AND DIU

Legislative Assembly of Goa, Daman and Diu

Legislature Department

LA/B/1707/1986

Dt: 25-7-1986

The following Bill which was introduced in the Legislative Assembly of Goa, Daman and Diu on 23rd July, 1986 is hereby published for general information in pursuance of the provisions of Rule - 136 of the Rules of Procedure and Conduct of Business of the Legislative Assembly.

The Code of Criminal Procedure (Goa, Daman and Diu Amendment) Bill, 1986

(Bill No. 16 of 1986)

A**BILL**

to amend the Code of Criminal Procedure, 1973 in its application to the Union territory of Goa, Daman and Diu.

Be it enacted by the Legislative Assembly of Goa, Daman and Diu in the Thirty-seventh Year of the Republic of India as follows:—

1. Short title and commencement.— (1) This Act may be called the Code of Criminal Procedure (Goa, Daman and Diu Amendment) Act, 1986.

(2) It shall come into force at once.

2. Amendment of section 357.— In section 357 of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974)—

(i) in sub-section (1), for the brackets, figure and words “(1) When a Court imposes a sentence of fine or a sentence (including a sentence of death) of which fine forms a part, the Court may, when passing judgement, order the whole or any part of the fine recovered to be applied—”, the brackets, figure and words “(1) When a Court imposes a sentence of fine or a sentence (including a sentence of death) of which fine forms a part, the Court may, and where a person against whom an offence is committed belongs to the Scheduled

Caste or the Scheduled Tribe as defined in clauses (24) and (25) of article 366 of the Constitution except when both the accused person and the person against whom an offence is committed belong either to such Castes or Tribes, the Court shall, when passing judgement, order the whole or any part of the fine recovered to be applied—” shall be substituted;

(ii) for sub-section (3), the following sub-section shall be substituted, namely:—

“(3) When a Court imposes a sentence, of which fine does not form a part, the Court may, and where a person against whom an offence is committed belongs to the Scheduled Castes or the Scheduled Tribes as defined in clauses (24) and (25) of article 366 of the Constitution, the Court shall, when passing judgement, order the accused person to pay, by way of compensation, such amount as may be specified in the order to the person who has suffered any loss or injury by reason of the act for which the accused person has been so sentenced:

Provided that the Court may not order the accused person to pay by way of compensation any amount, if both the accused person and the person against whom an offence is committed belong either to the Scheduled Castes or the Scheduled Tribes.”

Statement of Objects and Reasons

This Bill seeks to amend section 357 of the Code of Criminal Procedure, 1973 so as to secure payment of compensation through the Courts in cases involving atrocities perpetrated on the members of the Scheduled Castes or Scheduled Tribes with a view to help curbing atrocities on such Scheduled Castes or Scheduled Tribes.

Financial Memorandum

No financial implications are involved in this Bill.

Panaji,
26th June, 1986.

PRATAPSINGH RAOJI RANE
Chief Minister

Assembly Hall,
Panaji,
16th July, 1986.

M. M. NAIK
Secretary to the Legislative Assembly
of Goa, Daman and Diu

(Annexure to Bill No. 16 of 1986)

The Criminal Procedure (Goa, Daman and Diu Amendment) Bill, 1986

The Code of Criminal Procedure, 1973
(Central Act 2 of 1974)

357. Order to pay compensation. — (1) When a Court imposes a sentence of fine or a sentence (including a sentence of death) of which fine forms a part, the Court may, when passing judgement, order the whole or any part of the fine recovered to be applied—

- (a) in defraying the expenses properly incurred in the prosecution;
- (b) in the payment to any person of compensation for any loss or injury caused by the offence, when compensation is, in the opinion of the Court, recoverable by such person in a Civil Court;
- (c) when any person is convicted of any offence for having caused the death of another person or of having abetted the commission of such an offence, in paying compensation to the persons who are, under the Fatal Accidents Act, 1855, entitled to recover damages from the person sentenced for the loss resulting to them from such death.
- (d) when any person is convicted of any offence which includes theft, criminal misappropriation, criminal breach of trust, or cheating, or of having voluntarily assisted in disposing of, stolen property knowing or having reason to believe the same to be stolen, in compensation any bona fide purchaser of such property for the loss of the same if such property is restored to the possession of the person entitled thereto.

(2) If the fine is imposed in a case which is subject to appeal, no such payment shall be made before the period allowed for presenting the appeal has elapsed, or, if an appeal be presented, before the decision of the appeal.

(3) When a Court imposes a sentence, of which fine does not form a part, the Court may, when passing judgement, order the accused person to pay, by way of compensation, such amount as may be specified in the order to the person who has suffered any loss or injury by reason of the act for which the accused person has been so sentenced.

(4) An order under this section may also be made by an Appellate Court or by the High Court or Court of Session when exercising its powers of revision.

(5) At the time of awarding compensation in any subsequent civil suit relating to the same matter, the Court shall take into account any sum paid or recovered as compensation under this section.

Assembly Hall,
Panaji,
16th July, 1986.

M. M. NAIK
Secretary to the Legislative Assembly
of Goa, Daman and Diu

LA/B/1708/1986

Dt: 25-7-1986

The following Bill which was introduced in the Legislative Assembly of Goa, Daman and Diu on 23rd July, 1986 is hereby published for general information in pursuance of the provisions of Rule - 136 of the Rules of Procedure and Conduct of Business of the Legislative Assembly.

The Goa, Daman and Diu Preservation of Trees (Amendment) Bill, 1986

(Bill No. 18 of 1986)

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BILL

to amend the Goa, Daman and Diu Preservation of Trees Act, 1984.

Be it enacted by the Legislative Assembly of Goa, Daman and Diu in the Thirty-seventh Year of the Republic of India as follows:

Short title, extent and commencement. — (1) This Act may be called the Goa, Daman and Diu Preservation of Trees (Amendment) Act, 1986.

(2) It shall come into force at once.

2. Amendment of section 16. — In the Goa, Daman and Diu Preservation of Trees Act, 1984 (6 of 1984) for section 16, the following section shall be substituted, namely:

"16. Seizure of property. — Where the Tree Officer or a Forest Officer not below the rank of a Forest Ranger or a Police Officer not below the rank of a Sub-Inspector has reasons to believe that an offence under this Act is committed in respect of any tree, he may seize the tools, implements, any boats, vehicles, animals or other conveyances used for the commission of the said offence, alongwith the tree or part thereof which has been severed from the ground or the trunk, as the case may be:

Provided that when the seizure has been affected by a Forest Officer or a Police Officer, he shall immediately inform the concerned Tree Officer about the said seizure:

Provided further that every officer seizing any property under this section shall place on such property a mark indicating that the same has been so seized and shall as soon as may be, make a report of such seizure to the Magistrate having jurisdiction to try the offence on account of which the seizure has been made."

Statement of Objects and Reasons

In terms of section 16 of the Goa, Daman and Diu Preservation of Trees Act, 1984, the power of seizure of tools, implements, any boats, vehicles, animals or other conveyances used for the Commission of Offence, is vested with the Tree Officer whereas the power of arresting without warrant under section 19 of the said Act is vested with the Tree Officer or a Forest Officer not below the rank of Forest Ranger or Police Officer not below the rank of Sub-Inspector. As the Tree Officer may not always be available at the place of Commission of Offence under the Act, it is proposed that the Officers to whom the powers to arrest without warrant has been given under section 19, may also exercise powers under section 16 to seize property which is used for the Commission of the Offence.

This Bill seeks to achieve this purpose.

Financial Memorandum

No financial implications are involved in this Bill.

Panaji,
1st July, 1986.

PRATAPSINGH RANE
Chief Minister

Assembly Hall,
Panaji,
16th July, 1986.

M. M. NAIK
Secretary to the Legislative Assembly
of Goa, Daman and Diu

(Annexure to Bill No. 18 of 1986)

The Goa, Daman and Diu Preservation of Trees
(Amendment) Bill, 1986

The Goa, Daman and Diu Preservation of Trees
Act, 1984 (6 of 1984)

16. Seizure of property.—Where the Tree Officer has reasons to believe that an offence under this Act is committed in respect of any tree, he may seize the tools, implements, any boats, vehicles, animals or other conveyances used for the commission of the said offence, alongwith the tree or part thereof which has been severed from the ground or the trunk, as the case may be.

Assembly Hall,
Panaji.
16th July, 1986.

M. M. NAIK
Secretary to the Legislative Assembly
of Goa, Daman and Diu

LA/B/1709/1986

Dt: 25-7-1986

The following Bill which was introduced in the Legislative Assembly of Goa, Daman and Diu on 23rd July, 1986 is hereby published for general information in pursuance of the provisions of Rule - 136 of the Rules of Procedure and Conduct of Business of the Legislative Assembly.

**The Goa, Daman and Diu Irrigation (Amendment)
Bill, 1986**

(Bill No. 19 of 1986)

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BILL

further to amend the Goa, Daman and Diu Irrigation Act, 1973.

Be it enacted by the Legislative Assembly of Goa, Daman and Diu in the Thirty-seventh Year of the Republic of India as follows:—

1. Short title and commencement.—(1) This Act may be called the Goa, Daman and Diu Irrigation (Amendment) Act, 1986.

(2) It shall come into force at once.

2. Amendment of section 2.—In section 2 of the Goa, Daman and Diu Irrigation Act, 1973 (18 of 1973), in clause (16), for the word "thirty", the words "five hundred" shall be substituted.

Statement of Objects and Reasons

1. The Irrigation Department has been facing certain difficulties in acquisition of land for water courses as the discharge of 30 litres per second is small; hence it is sought to enlarge the scope of the definition of water course to include water courses with larger capacity.

2. This Bill seeks to amend the Goa, Daman and Diu Irrigation Act, 1973 to that effect.

Financial Memorandum

No financial implications are involved in this Bill.

Panaji,
15th July, 1986.

PRATAPSINGH RAOJI RANE
Minister for Irrigation

Assembly Hall,
Panaji,
16th July, 1986.

M. M. NAIK
Secretary to the Legislative Assembly
of Goa, Daman and Diu

(Annexure to Bill No. 19 of 1986)

The Goa, Daman and Diu Irrigation (Amendment) Bill, 1986

The Goa, Daman and Diu Irrigation Act, 1973 (18 of 1973)

Section 2

Clause (16) "Water-course" means any water-channel or pipe having a capacity not exceeding thirty litres per second, which is supplied with water from a canal and includes all subsidiary works belonging to such channel or pipe except the sluice or outlet through which water is supplied to such channel or pipe.

Assembly Hall,
Panaji,
16th July, 1986.

M. M. NAIK
Secretary to the Legislative Assembly
of Goa, Daman and Diu

LA/B/1710/1986

Dt: 25-7-1986

The following Bill which was introduced in the Legislative Assembly of Goa, Daman and Diu on 23rd July, 1986 is hereby published for general information in pursuance of the provisions of Rule - 136 of the Rules of Procedure and Conduct of Business of the Legislative Assembly.

**The Goa, Daman and Diu Entertainment Tax
(Amendment) Bill, 1986**

(Bill No. 20 of 1986)

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BILL

further to amend the Goa, Daman and Diu Entertainment Tax Act, 1964.

Be it enacted by the Legislative Assembly of Goa, Daman and Diu in the Thirty-seventh Year of the Republic of India as follows:—

1. Short title and commencement.—(1) This Act may be called the Goa, Daman and Diu Entertainment Tax (Amendment) Act, 1986.

(2) It shall come into force at once.

2. Amendment of section 2.—In section 2 of the Goa, Daman and Diu Entertainment Tax Act, 1964 (hereinafter referred to as the "principal Act"),

after clause (i), the following clause shall be added, namely:—

“(j) “Surcharge or surcharge on entertainment tax” means the surcharge leviable under section 3 B.”.

3. *Insertion of new section 3 B.*—After section 3A of the principal Act, the following sections shall be inserted, namely:—

“3B. Levy of Surcharge.—(1) In addition to the tax payable under section 3 of the principal Act, there shall be levied and paid to the Government on every admission to an entertainment, a surcharge on entertainment tax which shall be calculated at the rate of ten percent on the entertainment tax payable.

(2) In computing the surcharge payable under sub-section (1), the surcharge leviable shall be computed with reference to each single person admitted and shall, wherever necessary, be rounded off to the nearest multiple of five paise and, for this purpose, where such amount contains any amount less than five paise, then if such amount is two paise or more it shall be increased to five paise and if such amount is less than two paise it shall be ignored.

3C. Substitution of certain words.—For the words “tax” or “entertainment tax” wherever they occur in the principal Act in the context of payment of tax, the words “tax and surcharge” or “entertainment tax and surcharge on entertainment tax” shall be substituted respectively.”.

Statements of Objects and Reasons

It is necessary to levy surcharge on all the tickets issued in connection with the entertainment in addition to the prevailing entertainment tax for the purpose of collecting additional revenue so as to mobilise additional resources for implementation of the Plan Schemes of this Union territory. A commitment to this effect had been made to the Planning Commission at the time of discussion of the Annual Plan with the Planning Commission. Thus, in addition to the tax payable under section 3 of the principal Act, it will be levied and paid to the Government on every admission to an entertainment, a surcharge on entertainment tax which shall be calculated at the rate of 10% on the entertainment tax payable.

Financial Memorandum

No additional expenditure is involved due to the proposed amendment since the existing machinery will carry out the work which may result on account of the proposed amendment.

Panaji,
6th July, 1986.

PRATAPSINGH RAOJI RANE
Chief Minister

Assembly Hall,
Panaji,
16th July, 1986.

M. M. NAIK
Secretary to the Legislative Assembly
of Goa, Daman and Diu

Administrator's recommendation under Section 23 of the Government of Union Territories Act, 1963.

In pursuance of sub-section (1) and (3) of Section 23 of the Government of Union Territories Act, 1963, the Administrator of Goa, Daman and Diu has recommended to the Legislative Assembly of Goa, Daman and Diu the introduction and consideration of the Goa, Daman and Diu Entertainment Tax (Amendment) Bill, 1986.

LA/B/1712/1986

Dt: 25-7-1986

The following Bill which was introduced in the Legislative Assembly of Goa, Daman and Diu on 24th July, 1986 is hereby published for general information in pursuance of the provisions of Rule - 136 of the Rules of Procedure and Conduct of Business of the Legislative Assembly.

The Goa, Daman and Diu Administration of Evacuee Property (Amendment) Bill, 1986

(Bill No. 21 of 1986)

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BILL

to confer tenancy right on the tenants of agricultural lands which are evacuee properties and to amend the Goa, Daman and Diu Administration of Evacuee Property Act, 1964 and the Goa, Daman and Diu Agricultural Tenancy Act, 1964 therefore and for certain other matters.

Be it enacted by the Legislative Assembly of Goa, Daman and Diu in the Thirty-seventh Year of the Republic of India as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Goa, Daman and Diu Administration of Evacuee Property (Amendment) Act, 1986.

(2) It shall come into force at once.

2. *Amendment of section 2.*—In section 2 of the Goa, Daman and Diu Administration of Evacuee Property Act, 1964 (Act 6 of 1964) (hereinafter referred to as the principal Act),—

(i) clause (a) shall be renumbered as clause (aaa) and before clause (aaa) as so renumbered, the following clauses shall be inserted, namely:—

“(a) “agriculture” includes horticulture and raising of food crops, grass and garden produce but does not include allied pursuits.

(aa) “allied pursuits” means rearing or maintaining plough bulls, breeding of livestock, dairy farming, poultry farming, grazing on grounds reserved for the purpose and such other pursuits connected with agriculture, as may be prescribed;”;

(ii) after clause (f), the following clause shall be inserted, namely:—

“(ff) “lease” means a transfer of a right to enjoy land, made orally or in writing, for a

specified, or unspecified period, and in consideration of rent;";

(iii) after clause (k), the following clauses shall be inserted namely:—

"(kk) "rent" means any consideration in money or kind or both, paid or payable by a tenant on account of the use or occupation of the land held by him but shall not include the rendering of any personal service or labour;

(kkk) "tenancy" means the relationship existing between the tenant and the Custodian;

(kkkk) "tenant" means a person who on or after the date of commencement of the Goa, Daman and Diu Administration of Evacuee Property (Amendment) Act, 1986 holds land on lease and cultivates it personally but does not include a person who holds land on lease for the purpose of plucking the fruits only;";

3. *Substitution of section 3.* — For section 3 of the principal Act, the following section shall be substituted, namely:—

"3. *Act to override other laws.* — (1) On and from the date of coming into force of the Goa, Daman and Diu Administration of Evacuee Property (Amendment) Act, 1986, the provisions of the Goa, Daman and Diu Agricultural Tenancy Act, 1964 (Act 7 of 1964), for the time being in force, shall apply in respect of agricultural land and tenancies created by the Custodian.

(2) The provisions of this section shall, save as otherwise expressly provided, have effect notwithstanding anything to the contrary contained in any instrument having effect by virtue of any such law".

4. *Amendment of section 8.* — In section 8 of the principal Act, —

(i) In sub-section (1), for the words "Subject to the provisions of any rules", the words "Save as otherwise expressly provided and subject to the provision of any rules" shall be substituted;

(ii) In sub-section (2), after clause (m), the following clause shall be inserted, namely:—

"(n) invest any money held by him in such securities as may be prescribed:".

5. *Amendment of section 10.* — In sub-section (1) of section 10 of the principal Act, after the words "Notwithstanding anything contained in any other law for the time being in force", the words and figure "and save as provided in section 3" shall be inserted.

6. *Amendment of section 15.* — In sub-section (1) of section 15 of the principal Act, for the words "Subject to such rules", the words and figure "Save as provided under section 3 and subject to such rules" shall be substituted.

7. *Amendment of section 23.* — In section 23 of the principal Act, for the words "Any person who fails to comply with", the words and figure "Save as provided under section 3, any person who fails to comply with" shall be substituted.

8. *Amendment of section 44.* — In section 44 of the principal Act, for the words "Government may", the words and figures "Save as provided under section 3, the Government may" shall be substituted.

9. *Amendment of section 46.* — In sub-section (2) of section 46 of the principal Act, after clause (r), the following clause shall be inserted, namely:—

"(rr) the securities in which the Custodian may invest any moneys held by him;"

10. *Amendment of section 56 of the Goa, Daman and Diu Agricultural Tenancy Act, 1964.* — In sub-section (1) of section 56 of the Goa, Daman and Diu Agricultural Tenancy Act, 1964 (Act 7 of 1964), the words and figures "or lands vested in the Custodian under the Goa, Daman and Diu Administration of Evacuee Property Act, 1964" shall be omitted.

Statement of Objects and Reasons

The Goa, Daman and Diu Administration of Evacuee Property Act, 1964, as in force in this Union territory of Goa, Daman and Diu, has an overriding effect on other laws for the time being in force. The overriding effect of the said Act of 1964 takes away, in so far as the question of the evacuee property is concerned, the jurisdiction of any other Court or Tribunal under any other statute or in any instrument having effect by virtue of any such law in terms of section 3 of the said Act. As a result, all agricultural tenancies created by the Custodian of Evacuee Property in pursuance of the vesting of land in him under the said Act do not fall within the purview of the Goa, Daman and Diu Agricultural Tenancy Act, 1964. Apart from the above, section 56 of the Goa, Daman and Diu Agricultural Tenancy Act, 1964 itself excluded the land vested in the Custodian of Evacuee Property from its purview.

The Goa, Daman and Diu Agricultural Tenancy (Fifth Amendment) Act, 1976 (17 of 1976) has been brought into force with effect from 26-4-1976. The object of this Act was to confer ownership rights on cultivating tenants and vesting the same subject to other provisions of the Goa, Daman and Diu Agricultural Tenancy Act, 1964. However, in view of the provisions contained under section 3 of the Goa, Daman and Diu Administration of Evacuee Property Act, 1964 read with section 56 of the Goa, Daman and Diu Agricultural Tenancy Act, 1964, the object thereunder could not be achieved unless both Acts are amended suitably.

The Bill is intended to remove the aforesaid hardship to such tenants and provide for the application of the provisions of the Goa, Daman and Diu Agricultural Tenancy Act, 1964 to the cultivating tenants of agricultural lands vested in the Custodian thereby conferring ownership rights in the cultivating tenants subject to other provisions of this Act.

Financial Memorandum

The Bill does not involve any expenditure for implementing the provisions of the Bill as the existing machinery would be entrusted with the work of implementation of the Bill. However, in pursuance of

section 18J(4) of the Goa, Daman and Diu Agricultural Tenancy Act, 1964, the Government will have to pay compensation towards the purchase price in respect of lands vested in it. The expenditure that may have to be incurred by the Government on this account cannot be envisaged at this stage.

Panaji,
14th July, 1986.

PRATAPSINGH RANE
Chief Minister

Assembly Hall,
Panaji,
15th July, 1986.

M. M. NAIK
Secretary to the Legislative Assembly of Goa, Daman and Diu

Administrator's recommendation under Section 23 of Government of Union Territories Act, 1963.

In pursuance of sub-section (1) and (3) of Section 23 of the Government of Union Territories Act, 1963, the Administrator of Goa, Daman and Diu has recommended to the Legislative Assembly of Goa, Daman and Diu the introduction and consideration of the Goa, Daman and Diu Administration of Evacuee Property (Amendment) Bill, 1986.

(Annexure to Bill No. 21 of 1986)

The Goa, Daman and Diu Administration of Evacuee Property (Amendment) Bill, 1986

The Goa, Daman and Diu Administration of Evacuee Property Act, 1964
(Act No. 6 of 1964)

2. Definitions. — In this Act unless the context otherwise requires,—

(a) "Custodian" means the Custodian appointed or deemed to be appointed under section 4, and includes any Deputy or Assistant Custodian of evacuee property;

(f) "intending evacuee" means any Portuguese national in Goa, Daman and Diu against whom any intention to settle in any place outside India is established from his conduct or from documentary evidence and who is declared as an intending evacuee under section 18;

(k) "relevant date" means the sixth day of December, 1961:

Provided that Government by notification in the Official Gazette fix the 15th day of August, 1954, as the relevant date for any particular class or category of cases;

3. Act to over-ride other laws. — The provision of this Act and of the rules and orders made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any such law.

8. Powers and duties of the Custodian generally. — (1) Subject to the provisions of any rules that may be made in this behalf, the Custodian may take such measures as he considers necessary or expedient for the purposes of securing, administering, preserving and managing any evacuee property and generally for the purpose of enabling him satisfactorily to discharge any of the duties imposed on him by or under this Act and may, for any such purpose as aforesaid, do all acts and incur all expenses necessary or incidental thereto.

(2) Without prejudice to the generality of the provisions contained in sub-section (1), the Custodian may, for any of the purposes aforesaid,—

(m) delegate, by general or special order, all or any of his functions under this Act to such officers or persons as may be prescribed.

10. Custodian's right in respect of leases, allotments or possession of evacuee property. — (1) Notwithstanding anything contained in any other law for the time being in force or in any agreement or contract, the Custodian may cancel any allotment or terminate any lease or amend the terms of any lease or agreement under which any evacuee property is held or occupied by a person (whether such allotment, lease or agreement was granted or entered into before or after the commencement of this Act).

15. Restoration of evacuee property. — (1) Subject to such rules as may be made in this behalf, any evacuee or any person claiming to be an heir of an evacuee may apply to Government or to any person authorised by it in this behalf (hereinafter in this section referred to as the authorised person) that any evacuee property which has vested in the Custodian and to which the applicant would have been entitled in this Act were not in force, may be restored to him.

23. Penalty for failure to surrender possession of evacuee property. — Any person who fails to comply with a notice or demand by or on behalf of the Custodian under the provisions of this Act to surrender possession of any evacuee property shall be punishable with imprisonment for a term which may extend to six months, or with fine, or with both.

44. Power of Government to take action with regard to evacuee property. — Government may, for the purpose of regulating or improving the administration of any property which has vested in the Custodian under or direct such action to be taken in relation thereto, as in its opinion the circumstances of the case require and as is not inconsistent with any of the provisions contained in this Act.

46. Power to make rules. — (1) Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(r) the persons by whom and the time at which books of accounts maintained under this Act may be inspected and audited;

The Goa, Daman and Diu Agricultural Tenancy Act, 1964

(Act No. 7 of 1964)

56. Exemption. — (1) The provisions of this Act shall not apply to lands leased or held by the Government or lands granted to or for the benefit of any individual specifically for rendering any service to any religious, educational or charitable institution or for any other specific service to the public or lands vested in the Custodian under the Goa, Daman and Diu Administration of Evacuee Property Act, 1964.

Assembly Hall,
Panaji, 15th July, 1986. Secretary to the Legislative Assembly of Goa, Daman and Diu.

LA/B/1713/1986

Dt: 25-7-1986

The following Bill which was introduced in the Legislative Assembly of Goa, Daman and Diu on 24th July, 1986 is hereby published for general information in pursuance of the provisions of Rule - 136 of the Rules of Procedure and Conduct of Business of the Legislative Assembly.

The Goa, Daman and Diu Fire Force Bill, 1986

(Bill No. 22 of 1986)

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BILL

to provide for the maintenance of Fire Force for the Union territory of Goa, Daman and Diu.

Whereas it is expedient to provide for the establishment and maintenance of fire force in the Union territory of Goa, Daman and Diu;

Be it enacted by the Legislative Assembly of Goa, Daman and Diu in the Thirty-seventh Year of the Republic of India as follows:—

CHAPTER I

Preliminary

1. *Short title, extent and commencement.*—(1) This Act may be called the Goa, Daman and Diu Fire Force Act, 1986.

(2) It extends to the whole of the Union territory of Goa, Daman and Diu.

(3) It shall come into force in any area on such date as the Government may by notification in the Official Gazette, appoint and different dates may be appointed for different areas and different provisions of this Act and in reference to any such provisions to the area or areas in which this Act is in force shall be construed as a reference to the area or areas in which the provision is in force.

2. *Definitions.*—In this Act, unless the context otherwise requires,—

(a) “Collector” means the Chief Officer in charge of Revenue Administration of the District and includes acting or officiating Collector and also any officer appointed by the Government to exercise the functions of the Collector;

(b) “Director/Chief Fire Officer” means the Officer appointed by the Government as Director/Chief Fire Officer of the Fire Service of the Union territory of Goa, Daman and Diu;

(c) “Fire Fighting Property” includes

- (i) lands and buildings used as Fire Stations;
- (ii) fire fighting appliances, equipment, tools implements and things whatsoever used for fire fighting;
- (iii) motor vehicles and other means of transport used in connection with the fire fighting;
- (iv) uniforms and badges of rank.

(d) “Fire Station” means any post or place declared generally or specially by the Government to be the fire station;

(e) “Fire Force” means the Fire Force of Goa, Daman and Diu maintained under this Act;

(f) “Officer-in-Charge” of fire station includes, when Officer-in-charge is absent from the station or unable from illness or other cause to perform his duties, the fire officer present at the station who is next in the rank to such officer.

(g) “Official Gazette” means the Official Gazette of the Government of Goa, Daman and Diu.

(h) “Prescribed” means prescribed by rules made under this Act.

3. *Maintenance of Fire Force.*—A fire force to be called as the Government Fire Force shall be maintained by Government for services in the local areas in which this Act is in force.

4. *Superintendence and Control of Fire Force.*—(1) Superintendence and Control of the Fire Force shall vest in the Director/Chief Fire Officer and shall be carried on by him in accordance with the provisions of this Act and of any rules made thereunder.

(2) Government may appoint such officer as it may deem fit to assist the Director/Chief Fire Officer in the discharge of duties.

5. *Appointment of Members of Fire Force.*—The Director/Chief Fire Officer or such other officer of the Fire Service as the Government may authorise in this behalf shall appoint members of the Fire Force in accordance with the rules made under this Act.

6. *Issue of Certificate to Members of Fire Force.*—(1) Every person shall on appointment to the Fire Force, receive a certificate in the prescribed form under seal of the Director/Chief Fire Officer authorised in this behalf by the Government and thereupon such person shall have powers, functions and privileges of the members of the Fire Force under this Act.

(2) The certificate referred to in sub-section (1) shall cease to have effect when the person named therein ceases for any reason to be a member of the Fire Force and on his ceasing to be such member, he/she shall forthwith surrender the certificate to any officer empowered to receive the same.

(3) During any time of suspension, the powers, functions, privileges vested in any member of the Fire Force shall be in abeyance but such members shall continue to be subject to the same discipline and penalties as he/she would have been, if he/she had not been suspended.

7. *Auxiliary Fire Force.*—(1) Whenever it appears to the Government that it is necessary to augment the services it might raise an auxiliary Fire Force by employment of volunteers on such areas and on such terms and conditions as it may deem fit.

(2) Every such volunteer shall receive a certificate in the prescribed form, and shall have the same powers and protection and shall be liable to all such duties and penalties and be subordinate to the same authorities as members of the ordinary Fire Force.

8. *Expenditure on Fire Force.*—The entire expenditure in connection with Fire Force shall be met out from the consolidated fund of the Union territory of Goa, Daman and Diu.

CHAPTER II

Powers of Government, Director/Chief Fire Officer and Members of Force

9. *Powers of Government to make orders.*—The Government may from time to time make such general or special orders as it deems fit—

(a) for providing services with such appliances and equipment as it deems proper;

(b) for providing adequate supply of water and for securing the same as it shall be available for use;

(c) for construction or providing stations or hiring places for accommodating the members of the Fire Force and its fire fighting appliances;

(d) for giving rewards to persons who have given notice of fire and to those who have rendered effective services to the Fire Force on the occasion of fire in the discharge of their duties under section 26;

(e) for giving compensation to the persons who have rendered effective services to the Fire Force in case of accident or to the dependents of such persons in case of death while they were engaged in helping the Fire Force in the discharge of their duties;

(f) for the training, discipline and good conduct of the members of the Fire Force;

(g) for the speedy attendance of the members of the Fire Force with necessary appliances and equipment on the occasion of any alarm of fire;

(h) for sending members of the Fire Force with appliances and equipment beyond the limit of area in which this Act is in force for the purpose of fire fighting in the neighbourhood of such limit;

(i) for the employment of the members of the Fire Force in any rescue, salvage or any other similar work;

(j) for regulating and controlling of the powers, duties and functions of the Director/Chief Fire Officer.

(k) Generally for the maintenance of the Fire Force in a high state of efficiency.

10. Powers of Members of Fire Force on occasion of fire. — (1) On the occasion of fire in any area in which this Act is in force, any member of the Fire Force who is in charge of the fire fighting operation on the spot may—

(a) remove or order any other member of the Fire Force to remove any person who by his presence, interferes with or impedes the operation for extinguishing the fire or for saving life or property;

(b) close any street or passage in or near which the fire is burning;

(c) for the purpose of extinguishing fire, break into or break through or pull down any premises for the passage of hose or appliance or cause them to be broken into or through or pull down doing as little damage as possible;

(d) require the authority in charge of water supply in the area to regulate the water means so as to provide water at a specified pressure at the place where fire has broken out or utilise from any stream, cistern, well or tank or from any available source of water whether public or private, for the purpose of extinguishing or limiting the spread of such fire;

(e) exercise the same powers for dispersing an assembly of persons likely to obstruct fire fighting operation as if he is the officer in charge of a police station and as if such assembly is an unlawful assembly and shall be entitled to the same immunities and protection as such an officer in respect of the exercise of such powers;

(f) generally take such measures as may appear to him to be necessary for extinguishing fire or for the protection of life and property.

(2) Any damage done on the occasion of fire by the members of the Fire Force in the due discharge of their duties shall be deemed to be damage by fire within the meaning of any policy of insurance against fire.

11. Powers of Director/Chief Fire Officer to make arrangement for supply of water. — The Director/Chief Fire Officer may with the previous sanction of the Government, enter into an agreement with the Authority in charge of water supply in any area for securing the adequate supply of water in case of fire on such terms as to payment or otherwise as may be specified in the agreement.

12. Powers of Director/Chief Fire Officer to enter into agreement for assistance. — The Director/Chief Fire Officer may with the previous sanction of the Government enter into agreement with any person who employs or maintains personnel or keep equipments for fire fighting purpose. To secure on such terms as to payment or otherwise as may be provided by or under the arrangements of the personnel or equipment or any other assistance for the purpose of dealing with fire in any area in which this Act is in force.

13. Preventive Measures. — (1) The Government may by notification in the Official Gazette require owners or occupiers of premises in any area or of any class of premises used which in its opinion are likely to cause risk of fire, to take such precautions as may be specified in such notifications.

(2) Where notification has been issued under sub-section (1), it shall be lawful for the Director/Chief Fire Officer or any officer of the Fire Force authorised by the Government in this behalf to direct the removal of objects or goods likely to cause the risk of fire, to a place of safety and on failure of the owner or occupier to do so, the Director or any such officer may after giving the owner or occupier a reasonable opportunity of making the representation, seize, detain or remove such objects or goods.

CHAPTER III

Acquisition of Fire Fighting Property

14. Prohibition against transfer of fire fighting property. — No local authority of any area in which this Act is in force shall transfer or otherwise part with any fire fighting property without the previous sanction of the Government.

15. Requisitioning of fire fighting property. — (1) The Director/Chief Fire Officer or any member of the Fire Force who is in charge of a fire fighting operation may, if in his opinion it is necessary so to do for the purpose of extinguishing fire in any area, requisition and take possession of any fire fighting property in the possession of any local authority or any institution or individual.

(2) As soon as may be after the fire fighting operations are over, the Director/Chief Fire Officer or the member in charge of the fire fighting operation, as the case may be, shall release the property taken possession of under sub-section (1) from

requisition and restore the same to the local authority, institution or individual from whose possession such property was taken.

(3) Where any fire fighting property is requisitioned under sub-section (1), there shall be paid to the owner of such property compensation the amount of which shall be determined in accordance with the principles hereinafter set out, that is to say—

(a) Where the amount of compensation can be fixed by agreement between the Director/Chief Fire Officer and the owner of the fire fighting property, it shall be paid in accordance with such agreement.

(b) Where no such agreement can be reached, the Director/Chief Fire Officer shall refer the matter to the Magistrate having jurisdiction over the area in which the fire fighting property was kept and the Magistrate shall after hearing the parties and such other persons as he deems necessary, fix the amount of compensation taking into consideration the rent which the fire fighting property would normally fetch if rented out for a similar purpose. The order of the Magistrate fixing the amount of compensation shall be final.

16. Acquisition of fire fighting property.—(1) If, after making such inquiry and investigation as it deems necessary and after giving the local authority an opportunity to make its representation, the Government is of opinion that the standard of efficiency of the fire fighting personnel and equipment maintained by the local authority is not adequate to meet the normal requirements of the area, the Government may acquire the fire fighting property of the local authority by publishing in the Official Gazette a notice to the effect that the Government has decided to acquire such property on payment of compensation, a copy of such notice shall also be served on the local authority.

(2) When a notice as aforesaid is published in the Official Gazette, the property specified in such notice shall on and from the beginning of the date on which the notice is so published, vest absolutely in the Government free from all encumbrances.

17. Principles and method of determining compensation.—(1) The Director/Chief Fire Officer or any officer authorised by the Government shall as soon as may be after the publication of the notice under sub-section (1) of section 16 determine the amount of compensation payable in respect of the fire fighting property based on the market value of the property on the date of publication of the said notice, that is to say, the price which it would have fetched in the open market if it had been sold on that date, provided that before determining the amount of compensation, the Director/Chief Fire Officer or the officer, as the case may be shall give the local authority an opportunity to state what in its opinion is a fair compensation.

(2) The Director/Chief Fire Officer or the officer, as the case may be, shall after determining the amount of compensation payable, give notice to the local authority of the amount of compensation so determined.

18. Reference to Court.—If the local authority agrees to accept the amount so determined, it shall

be paid in accordance with such agreement otherwise the Director/Chief Fire Officer or the Officer, as the case may be, shall refer the matter to the court having jurisdiction over the area in which the property is situated and the court shall, after hearing the parties and such other persons as it deems necessary determine the amount of compensation, which appears to it to be just, and in fixing the amount of compensation the court shall have regard to the market value of the property on the date of issue of notice referred to in sub-section (1) of section 16.

19. Appeal.—Where the Government or a local authority is aggrieved by the decision of the court under section 18, it may within thirty days from the date of such decision prefer an appeal to the High Court.

CHAPTER IV

Penalties

20. Penalty for violation of duty, etc.—Any member of the Fire Force who,—

(a) if found to be guilty of any violation of duty or wilful breach of any provision of this Act or any rule or order made thereunder; or

(b) is found to be guilty of cowardice; or

(c) withdraws from the duties of his office or resigns without permission or without having given previous notice of at least two months; or

(d) being absent on leave fails without reasonable cause to report himself for duty on the expiration of such leave; or

(e) accepts any other employment or office in contravention of the provisions of section 24,

shall be punishable with imprisonment which may extend to three months or with fine which may extend to an amount not exceeding three months' pay of such member or with both.

21. Failure to take precautions.—Whoever fails without reasonable cause to comply with any of the requirements specified in a notification issued under sub-section (1) of section 13 or of a direction issued under sub-section (2) of that section shall be punishable with fine which may extend to one thousand rupees.

22. Punishment for wilfully obstructing fire fighting operations.—Any person who wilfully obstructs or interferes with any member of the Fire Force who is engaged in fire fighting operations shall be punishable with imprisonment which may extend to three months or with fine which may extend to one thousand rupees or with both.

CHAPTER V

General and Miscellaneous

23. Training Centre.—The Government may establish and maintain one or more training centres in the territory for providing courses of instruction in the prevention or extinguishment of fire and may close down or re-establish any such centre.

24. Bar to other employment.—No member of the Fire Force shall engage in any employment or office

whatsoever other than his duties under this Act unless expressly permitted to do so by the Director/Chief Fire Officer.

25. *Transfer to other area.*—The Director/Chief Fire Officer or any officer authorised by the Government in this behalf may on the occasion of a fire or other emergency in any neighbouring area in which this Act is not in force, order the despatch of the members of the Fire Force with necessary appliances and equipments to carry on fire fighting operations in such neighbouring areas and thereupon all the provisions of this Act and the rules made thereunder shall apply to such area, during the period of fire or emergency or during such period as the Director/Chief Fire Officer may specify.

26. *Employment on other duties.*—It shall be lawful for the Government or any officer authorised by it in this behalf to employ the Fire Force to any rescue, salvage or other work for which it is suitable by reason of its training, appliances and equipments.

27. *Liability of owner of property to pay compensation.*—(1) Any person whose property catches fire on account of any action of his own or of his agent done deliberately or negligently shall be liable to pay compensation to any other person suffering damages to his property on account of any action taken under section 10 of this Act by any officer mentioned therein or any person acting under the authority of such officer.

(2) All claims under sub-section (1) shall be referred to the Collector within thirty days from the date when the damage was caused.

(3) The Collector shall, after giving the parties an opportunity of being heard, determine the amount of compensation due and pass an order stating such amount and the person liable for the same. The order so passed shall have the force of a decree of a Civil Court, and shall be subject to an appeal to the District Judge having jurisdiction over the area in which the property is situated.

28. *Inquiry into origin of fire and report to Government.*—Where any fire has occurred within any area in which this Act is in force, the Collector shall ascertain the fact as to the origin and cause of such fire in consultation with the Director/Chief Fire Officer and shall make a report thereon to the Government.

29. *Power to obtain information.*—Any officer of the Fire Force not below the rank of an Officer-in-Charge of a fire station may for the purpose of discharging his duties under this Act, require the owner or occupier of any building or other property to supply information with respect to the character of such building or other property, the available water supplies and the means of access thereto and other material particulars and such owner or occupier shall furnish all the information in his possession.

30. *Power of entry.*—(1) The Director/Chief Fire Officer or any member of the Fire Force authorised by him in this behalf may enter any of the places specified in any notification for the purpose of determining whether precautions against fire required to be taken on such places have been so taken.

(2) Save as otherwise expressly provided in this Act, no claim shall lie against any person for compensation for any damage necessarily caused by any entry made under sub-section (1).

31. *Consumption of water.*—No charge shall be made by any local authority for water consumed in fire fighting operations by the Fire Force.

32. *No compensation for interruption of water supply.*—No authority in charge of water supply in an area shall be liable to claim for compensation for damage by reason of any interruption of supply of water occasioned only by compliance of such authority with the requirement specified in clause (d) of section 10.

33. *Police Officers to aid.*—It shall be the duty of the police officers of all ranks to aid the members of the Fire Force in discharging their duties under the Act.

34. *Indemnity.*—No suit, prosecution or other legal proceedings shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Act or any rule or order made thereunder.

35. *Power to make rules.*—(1) The Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing powers, such rules may provide for:—

(a) The number of grade of officers and members of the Fire Force;

(b) The manner of appointment of members of the Fire Force;

(c) the form of the certificate to be issued to the Members of the Fire Force;

(d) the conditions of service of the members of the Fire Force including their ranks, pay and allowances, hours of duty and leave, maintenance of discipline and removal from service;

(e) the circumstances in which and the conditions subject to which members of the Fire Force may be despatched to carry on fire fighting operations in neighbouring area beyond the limits of the area in which this Act is in force;

(f) the conditions subject to which members of the Fire Force may be employed on rescue, salvage or other works;

(g) the manner of service of notice under this Act;

(h) the payment of reward or compensation to persons, not being members of the Fire Force, who render services under clause (d) or clause (e) of section 9.

(i) the compensation payable to members of the Fire Force in case of accidents or to their dependants in case of death while engaged on duty;

(j) for the employment of the Fire Force or use of any equipment outside the area or on special services; and

(k) any other matter which is to be or may be prescribed.

Statement of Objects and Reasons

Protection of life and property due to fire and allied calamities is the responsibility of the State and should have legal validity instead of social conventions. However, there is no legislation in this Union territory to regularise the activities of the Fire Services and thereby to extend legal sanction for their functioning. It is, therefore, necessary that a suitable legislation is enacted to achieve this object. This Bill seeks to provide for the establishment and maintenance of Fire Force in this Union territory.

Financial Memorandum

Fire Services is already in existence in this territory. Total recurring expenditure for the salary of Officers and staff, wages, travel and office expenses and maintenance of machinery/equipments is to the tune of Rs. 20.5 lakhs. This expenditure is likely to increase every year due to normal increase in the establishment charges. No additional financial implications are involved for the present. The financial implications involved in this Bill will be accommodated within the sanctioned budget of the Directorate of Fire Services.

Memorandum Regarding Delegated Legislations

Clause 35 of the Bill empowers the Government to make rules for carrying out the purposes of the Act.

This delegation is of normal character.

Panaji,
11th July, 1986.

PRATAPSINGH RANE
Chief Minister

Assembly Hall,
Panaji,
15th July, 1986.

M. M. NAIK
Secretary to the Legislative Assembly
of Goa, Daman and Diu

Administrator's recommendation under
Section 23 of Government of Union Territories Act, 1963.

In pursuance of sub-section (1) and (3) of Section 23 of the Government of Union territories Act, 1963, the Administrator of Goa, Daman and Diu has recommended to the Legislative Assembly of Goa, Daman and Diu the introduction and consideration of the Goa, Daman and Diu Fire Force Bill, 1986.

LA/B/1714/1986

Dt: 25-7-1986

The following Bill which was introduced in the Legislative Assembly of Goa, Daman and Diu on 24th July, 1986 is hereby published for general information in pursuance of the provisions of Rule - 136 of the Rules of Procedure and Conduct of Business of the Legislative Assembly.

The Goa, Daman and Diu Electricity Duty Bill, 1986

CONTENTS

Preamble

Clauses

1. Short title, extent and commencement.
2. Definitions.
3. Duty on units of energy consumed.
4. Payment of electricity duty.
5. Person consuming energy etc. to keep books of account and submit returns.
6. Power to exempt.
7. Inspecting Officers.
8. Powers of Inspectors.
9. Recoveries.
10. Penalties.
11. Offences by companies.
12. Protection on action taken in good faith.
13. Power to make rules.
14. Savings.

SCHEDULE

The Goa, Daman and Diu Electricity Duty Bill, 1986

(Bill No. 23 of 1986)

A

BILL

to provide for the levy of a duty on consumption of electrical energy in the Union territory of Goa, Daman and Diu.

Whereas it is expedient to provide for the levy of a duty on consumption of electrical energy in the Union territory of Goa, Daman and Diu;

Be it enacted by the Legislative Assembly of Goa, Daman and Diu in the Thirty-seventh Year of the Republic of India as follows:—

1. *Short title, extent and commencement.*—(1) This Act may be called the Goa, Daman and Diu Electricity Duty Act, 1986.

(2) It shall come into force on such date as the Government may, by notification in the Official Gazette, appoint.

2. *Definitions.*—In this Act, unless the context otherwise requires,—

(a) “Chief Electrical Engineer” means the Chief Electrical Engineer of the Government and includes his duly authorised representative;

(b) “Consumer” means the owner or occupier of the premises which are for the time being connected for supply of energy with the distribution system belonging to the Government and in whose name the installation stands registered;

(c) “Department” means the Electricity Department of the Government;

(d) “Duty” means a duty levied on consumption of electrical energy;

(e) "Government" means the Government of Goa, Daman and Diu;

(f) "Energy" means electrical energy when generated, transmitted, supplied or used for any purpose except the transmission of a message;

(g) "licensee" means any person licensed under Part II of the Indian Electricity Act, 1910 (Central Act 9 of 1910), to supply energy and includes any person who has obtained the sanction of the Government under section 28 of that Act, the Central Government or the Government when it is engaged in the business of supplying energy;

(h) "new industrial undertaking" means any industrial undertaking which —

(i) is not formed by the splitting up or the reconstruction of business already in existence; or

(ii) is not formed by transfer to a new business, of a building, machinery or plant previously used for any purpose; and

(iii) which begins or has begun to manufacture or produce articles for the first time on or after the commencement of this Act, or at any time within a period of five years immediately preceding such a commencement;

(i) "Official Gazette" means the Goa, Daman and Diu Government Gazette;

(j) "person" means a person consuming electrical energy;

(k) "prescribed" means prescribed by rules made under this Act;

(l) "Schedule" means the Schedule to this Act;

(m) "Union territory" means the Union territory of Goa, Daman and Diu.

3. Duty on units of energy consumed. — (1) Subject to the provisions of sub-section (2), there shall be levied and paid to the Government on the units of energy consumed, a duty at the rates specified in the Schedule.

(2) No duty shall be leviable on the units of energy consumed —

(i) by the Government (save in respect of premises used for residential purposes);

(ii) in respect of a hospital, or nursing home or dispensary, each of which when not maintained for private gains;

(iii) where the energy generated is at a voltage not exceeding 100 volts;

(iv) in respect of such industrial or agricultural purposes (other than residential or office purposes) in such areas and subject to such terms and conditions and for such period as the Government may, having regard to the need and conditions of industrial and agricultural development in the areas, by general or special order, specify in that behalf:

Provided that the Government may, either prospectively or retrospectively, by notification in the Official Gazette, exclude —

(a) any areas aforesaid or any part thereof (regard being had to the price of energy prevailing therein and to the state of industrial development thereof); or

(b) any new industrial undertaking, as may be specified in this behalf by the Government in such notification; and thereupon the provision of this clause shall not apply in those areas or part thereof or in relation to such new industrial undertakings.

4. Payment of duty. — (1) Every person shall pay the proper duty to the Government at such time and in such manner as may be prescribed.

(2) Where any person fails or neglects to pay the duty, at the time and in the manner as prescribed, the Department may, without prejudice to its right to recover the amount under section 9, deduct such amount of electricity duty from the amount, if any, deposited by the consumer with the Department, after giving not less than seven days' clear notice in writing to such person, cut off the supply of energy to such person; and he may, for that purpose, exercise the power conferred on a licensee by sub-section (1) of section 24 of the Indian Electricity Act, 1910 (Central Act 9 of 1910), for recovery of any charge or sum due in respect of energy generated by such person.

(3) Every person other than a licensee who generates energy for his own use shall pay to the Government at the time and in the manner prescribed, the proper duty payable under this Act on the units of energy consumed by him.

(4) Notwithstanding anything contained in the foregoing sub-sections, where the Department is satisfied that there is a bonafide mistake on the part of a person in paying the proper duty, on account of wrong meter reading or misclassification of consumption falling under any particular part or clause in the Schedule, the Department may, at any time, by order and with prior approval of the Government, waive or write off, with retrospective effect, the recovery of the amount of the duty or any part thereof due at the proper rate and of the amount of interest, if any, payable for delayed payment under section 9.

5. Person consuming energy, etc. to keep books of account and submit returns. — Every person who is liable to pay proper duty under sub-section (3) of section 4 shall, save in respect of energy exempt from duty under sub-section (2) of section 3, keep books of account in the prescribed form and submit to the Department, returns in such form and at such times as may be prescribed, showing the units of energy consumed by him and the amount of the duty payable thereon and recovered or paid by him under section 4.

6. Power to exempt. — Subject to such conditions as it may impose, the Government may, if it considers it necessary in the public interest to do so, by notification in the Official Gazette, exempt whether prospectively or retrospectively, the consumption of energy in the whole or any part of the Union territory, in respect of any class of premises or purposes or class of consumers or in respect of energy consumed upto a specified limit, from payment of the whole or any part of the duty payable under this Act.

7. Inspecting Officer. — (1) Any Officer of the Electricity Department not below the rank of an Assistant Engineer shall be Inspector for the purposes of this Act.

(2) Every Inspector shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code (Central Act 45 of 1860).

8. Powers of Inspector.—(1) Subject to the provisions of any rules made by the Government in this behalf, the Inspector may—

(i) require production for inspection of such books and records as may be necessary for ascertaining or verifying the amount of duty leviable under the Act;

(ii) enter and search any premises where energy is, or is believed to be generated and consumed for the purpose of—

(a) verifying the statements made in the books of accounts kept and returns submitted under section 5;

(b) testing the reading of meters;

(c) verifying the particulars required in connection with the levy of electricity duty;

(iii) exercise such other powers and perform such other duties as may be necessary for carrying out the purposes of this Act, or the rules made thereunder.

(2) All searches made under sub-section (1) shall be made in accordance with the provisions of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974).

9. Recoveries.—Any sum due on account of duty, if not paid at the time and in the manner prescribed, shall be deemed to be in arrears, and thereupon, interest on such sum shall be payable at the rate of 2 per cent per month till such sum is paid; and the sum together with any interest thereon, shall be recoverable either through a civil court or as arrears of land revenue.

10. Penalties.—If any person—

(a) fails to keep books of account or to submit returns in accordance with the provisions of section 5 and the rules made in that behalf under section 13; or

(b) contravenes any rule made under the Act; or

(c) wilfully obstructs an Inspector in the exercise of the powers conferred upon him by or under this Act,

he shall, on conviction, be punished with fine which may extend to one thousand rupees.

11. Offences by companies.—(1) Where an offence under this Act has been committed by a company, every person who at the time the offence was committed, was in charge of and was responsible to the company for the conduct of the business of the company, as well as the company shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has

been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purpose of this section—

(a) “company” means a body corporate and includes a firm or other association of individuals; and

(b) “director” in relation to a firm means a partner in the firm.

12. Protection of action taken in good faith.—No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act.

13. Power to make rules.—(1) The Government may make rules not inconsistent with the provisions of the Act, for the purpose of carrying into effect the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may—

(a) prescribe the time and manner of payment of the duty under section 4;

(b) prescribe the form of the books of account to be kept, and the times at which, the form in which and the officers to whom the returns required by section 5 shall be submitted;

(c) prescribe the qualifications of Inspectors under section 7;

(d) prescribe the rules, if any, subject to which the Inspectors may exercise the power under section 8;

(e) provide that installation and the reading of meter and sub-meters;

(f) prescribe the procedure for securing any concession or exemption under the Act;

(g) provide for charging fees for the supply of copies of any documents under the Act;

(h) prescribe the procedure for referring questions to the authority, and for filing an appeal to the Government against any decision of such authority under paragraph II of the Schedule;

(i) provide for giving effect to the provisions of this Act.

(3) All rules made under the Act shall be subject to the condition of previous publication.

14. Savings.—For the avoidance of doubt, it is hereby declared that nothing in this Act shall be taken to impose or authorise the imposition of, a tax on the generation and consumption of electricity which is—

(a) generated and consumed by the Government of India; or

(b) generated and consumed in the construction, maintenance or operation of any railway of the Government of India.

SCHEDULE

(See section 3)

PART - A

I.

In respect of—

(i) Private houses, bungalows, clubs, hostels and hospitals run on non-commercial lines; charitable, education and religious institutions, etc. for lights, fans, radios, domestic heatings and other household appliances—

Units consumed per month	Paise/Unit
(a) for first 30 units	5
(b) for next 120 units	8
(c) for balance above 150 units	10

PART - B

In respect of—

Shops, offices, railway-stations, hotels, restaurants, photographic studios, X-Ray installations, laundries, drycleaners, cinemas, theatres, A. I. R. Station and other commercial installations for lights, fans, radios, heating and other appliances—

Units consumed per month	Paise/Unit
(a) for first 30 units	15
(b) for next 120 units	15
(c) for balance above 150 units	15

PART - C

In respect of—

General motive power service.

Units generated and consumed per month	Paise/Unit
All units (for L. T. consumers)	1
All units (for H. T. consumers)	4

PART - D

In respect of—

Poultry, dairy, piggery, pisciculture, etc. for lights, fans, heating and other appliances—

Units consumed per month	Paise/Unit
All units	5

PART - E

In respect of—

Irrigation pumping and agricultural purposes—

Units consumed per month	Paise/Unit
All units	1

PART - F

In respect of—

Public lighting system including signal system, and park lighting belonging to local authorities such as Municipalities/Panchayats, etc.

Units consumed per month	Paise/Unit
All units	—

PART - G

In respect of—

Temporary supply for exhibitions or entertainments for private gains or for social functions or for any other purpose.

Capacity of generator	Rs./KVA/day
Any capacity	2

II. Where any question arises as to the part or clause in this Schedule under which any consumption of energy falls, or where the energy is consumed for different purposes, what portion of consumption should be governed by such part or clause, the question shall be referred for decision to such authority, as the Government may by notification in the Official Gazette, specify for the whole or any part of the Union territory. The authority after such inquiry as it deems fit shall record its decision.

An appeal shall lie against such decision to the Government, which shall be made within sixty days from the date of the decision.

Where no such appeal is made, the Government may, at any time suo motu, for the purpose of satisfying itself as to the legality or propriety of the decision of the authority, call for and examine the record of the case. If it appears to the Government that any decision so called for, should be modified, annulled or reversed, the Government may, after giving the person affected thereby an opportunity of being heard, pass such order thereon as it thinks just.

The decision recorded by the authority, subject to any appeal to, or revision by the Government, and the order of the Government in appeal or revision shall be final.

Statement of Objects and Reasons

This Union territory is presently entirely dependent upon the neighbouring States for its requirements of power. At present our power requirement is met by Maharashtra and Karnataka States for Goa district and by Gujarat State for Daman and Diu districts. These States increase their rates for supply of power to this Union territory, from time to time and consequently we too had to increase the rates of sale of power to our consumers to keep pace with increase in cost of power. Even by increasing of rates for sale of power, there still remains a big gap between revenue by sale of power and cost of purchase of power. In order to reduce this gap between the revenue and cost of purchase, it is proposed to levy electricity duty on the energy generated and consumed by the consumers by installing generators.

Some Industrial units, theatres, hotels, etc., have installed generators for their own use, as stand-by, in case of power failure. The Electricity Department cannot levy any duty on the energy generated from generating sets by such consumers.

It is proposed to levy duty on consumers who generate electrical energy, as has been done in the neighbouring States.

This Bill seeks to achieve the above purpose.

Financial Memorandum

No financial implications are involved in this Bill.

Memorandum Regarding Delegated Legislation

Clause 13 of the Bill empowers the Government to make rules for the purpose of carrying into effect the provisions of the Act. This duly delegated Legislation is of normal character.

Panaji,
14th July, 1986.

HARISH N. P. ZANTYE
Minister for Power

Assembly Hall,
Panaji,
15th July, 1986.

M. M. NAIK
Secretary to the Legislative Assembly
of Goa, Daman and Diu

Administrator's recommendation under Section 23 of Government of Union Territories Act, 1963.

In pursuance of sub-section (1) and (3) of Section 23 of the Government of Union territories Act, 1963, the Administrator of Goa, Daman and Diu has recommended to the Legislative Assembly of Goa, Daman and Diu the introduction and consideration of the Goa, Daman and Diu Electricity Duty Bill, 1986.

LA/B/1715/1986
Dt: 25-7-1986

The following Bill which was introduced in the Legislative Assembly of Goa, Daman and Diu on 24th July, 1986 is hereby published for general information in pursuance of the provisions of Rule - 136 of the Rules of Procedure and Conduct of Business of the Legislative Assembly.

The Goa, Daman and Diu Public Moneys (Recovery of Dues) Bill, 1986
(Bill No. 24 of 1986)

A
BILL

to provide for the speedy recovery of certain classes of dues payable to the State Government, Financial Corporations and other Corporations owned or controlled by the State Government, Government Companies and nationalised and other Banks.

Be it enacted by the Legislative Assembly of Goa, Daman and Diu in the Thirty-seventh Year of the Republic of India as follows:—

1. Short title, extent and commencement. — (1) This Act may be called the Goa, Daman and Diu Public Moneys (Recovery of Dues) Act, 1986.

(2) It extends to the whole of the Union territory of Goa, Daman and Diu.

(3) It shall come into force on such date as the Government may, by Notification in the Official Gazette, appoint.

2. Definitions. — In this Act, unless the context otherwise requires, —

(a) "Agriculture" includes horticulture, raising of crops, grass or garden produce, animal husbandry, dairy farming, poultry farming and breeding of livestock;

(b) "Bank" means

(i) a banking company as defined in the Banking Regulation Act, 1949;

(ii) the State Bank of India constituted under the State Bank of India Act, 1955;

(iii) a subsidiary bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959;

(iv) a corresponding new bank constituted, under the Banking Companies (Acquisition and transfer of undertakings) Act, 1970;

(v) any banking Institution notified by the Central Government under section 51 of the Banking Regulations Act, 1949;

(vi) any other financial institution notified by the State Government by a notification in the Official Gazette as a bank for the purposes of this Act.

(c) "Corporation" means the Financial Corporation established or functioning in this Union territory and includes any other Corporation owned or controlled by the Central or the State Government specified by the State Government by a Notification in the Official Gazette.

(d) "Financial Assistance" means any kind of financial assistance given:—

(i) for establishing, expanding, modernising, renovating or running any industrial undertaking; or

(ii) for the purpose of vocational training; or

(iii) for the development of agriculture or agro industry; or

(iv) for the purpose of any kind of planned development recognised by the State Government; or

(v) for relief against distress caused by fire, or serious drought, flood, or other natural calamities; or

(vi) for the purpose of carrying out any Government sponsored scheme; or

(vii) for any other prescribed purpose;

(e) "Government Company" means a Government Company as defined under section 617 of the Companies Act, 1956.

(f) "Industrial concern" shall have the same meaning as is assigned to that expression in the State Financial Corporation Act, 1951.

(g) "Industrial undertaking" includes any undertaking for the manufacture, preservation, storage or processing of goods or the generation or distribution of electricity or any other form of energy, or for the development of any contiguous area of land as an industrial estate.

Explanation: The expression "processing of goods" includes any act or process for producing, repairing or making an article by subjecting any material to a manual, chemical, electrical or any other like operation;

(i) "prescribed" means prescribed by rules made under this Act.

(ii) "Government sponsored scheme" means a scheme sponsored or adopted by the State Government or an Officer authorised by it in this behalf for development of agriculture or industry and notified as such by the Government or the authorised officer, by a notification in the Official Gazette for the purpose of this Act.

(h) "State Government" means the Government of Goa, Daman and Diu.

3. Recovery of dues as arrears of land revenue.—

(1) Where any person is a party—

(a) to any agreement relating to a loan, advance or grant given to him or relating to credit in respect of, or relating to hire purchase of goods sold to him by the State Government, the Corporation or as the case may be; the Government Company by way of financial assistance; or

(b) to any agreement relating to a loan, advance or grant given to him relating to credit in respect of, or relating to hire purchase of goods sold to him by a Bank or Government Company, as the case may be under Government sponsored scheme; or

(c) to any agreement relating to a guarantee given by the State Government or the Corporation in respect of a loan raised by an industrial concern; or

(d) to any agreement providing that any money payable thereunder to the State Government or the Corporation shall be recoverable as arrears of land revenue;

and such person—

(i) makes any default in payment of the loan or advance of any instalment thereof; or

(ii) having become liable under the conditions of the grant to refund the grant or any portion thereof, makes any default in the refund of such grant or portion or any instalment thereof, or

(iii) otherwise fails to comply with the terms of the agreement—

then, in the case of the State Government such Officer as may be authorised in that behalf by the State Government by Notification in the Official Gazette, in the case of a Corporation or a Government Company, the Managing Director thereof or where there is no Managing Director, the Chairman thereof, by whatever name called, and in the case of a Bank, the local agent thereof by whatever name called, may send to the Collector a certificate as early as possible in the prescribed form mentioning the sum due from such person and requesting that such sum may be recovered as if it were an arrear of land revenue.

(2) The Collector on receiving the certificate shall after making such enquiries (including giving hearing to the party affected) as he deems fit proceed to recover the amount stated therein as aforesaid as arrears of land revenue.

(3) On recovery of any amount under sub-section (2), the same shall be paid over to the State Government, Corporation, Government Company or as the case may be, bank after deducting, except in the case of amount to be paid to the State Government, such portion of the amount realised, as cost of collection, as the Collector, may deem to be reasonable.

(4) No suit for the recovery of any such due as aforesaid shall lie in a Civil Court against any person referred to in sub-section (1) and no injunction shall be granted by a Civil Court in respect of any action taken or intended to be taken in pursuance of the right conferred by this section.

4. Interest of State Government, Corporation, etc. not to be affected.—(1) Nothing in section 3 shall—

(a) affect any interest of the State Government, the Corporation or the Government Company or any bank in any property, created by any mortgage, charge, pledge, or other encumbrance; or

(b) bar a suit or affect any other right or remedy against any person other than a person referred to in that section, in respect of a contract of indemnity or guarantee entered into in relation to an agreement referred to in clause (a).

(2) Where the property of any person referred to in section 3 is subject to any mortgage, charge, pledge, or other encumbrance in favour of the State Government, the Corporation, a Government Company or a Bank then—

(a) in every case of a pledge of goods, proceedings shall first be taken for sale of the goods pledged, and if the proceeds of such sale are less than the sum due, then proceedings shall be taken for recovery of the balance as if it were an arrear of land revenue:

Provided that where the Collector is of the opinion that it is necessary so to do for safeguarding the recovery of the sum due to the State Government, Corporation, Government Company or Bank, as the case may be, he may, for reasons to be recorded direct proceedings to be taken for the recovery of the sum due as if it were an arrear of land revenue before or at the same time the proceedings are taken for sale of the goods pledged.

(b) in every case of mortgage, charge or other encumbrance of immovable property the said property or as the case may be the interest of the defaulter therein, shall first be sold in proceedings for recovery of the sum due from that person as if it were an arrear of land revenue, and any other proceedings may be taken thereafter only if the Collector certifies that there is no prospect for realisation of the entire sum due through the first mentioned process within reasonable time.

5. Act not to debar recovery of dues in respect of financial assistance given by the bank to agricultur-

turist. — Subject to the provisions of sub-section (3) of section 3, nothing in this Act shall debar the recovery of dues in respect of financial assistance given by a bank to an agriculturist or the security of a charge or mortgage created by the agriculturist on any land or interest therein in favour of the bank, where such dues are recoverable by the Bank under the provisions of any other law for the time being in force.

6. Power to make rules. — (1) The State Government may, by notification in the Official Gazette and subject to the condition of previous publications, make rules for the purpose of carrying out the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing powers, such rules may be made for all or any of the following matters, namely:—

(a) any other purpose to be prescribed under sub-clause (vii) of clause (d) of section 2.

(b) the form of certificate to be sent under sub-section (1) of section 3.

(c) any other matter which is to be or may be prescribed.

7. Suits in Civil Courts to abate. — All suits of the nature referred to in sub-section (4) of section 3 pending in any Civil Court immediately before the commencement of this Act shall abate upon such commencement so however that such abatement shall be without prejudice to the right of the State Government, Corporation, Government Company or Bank, as the case may be, to recover any sum which may be the subject matter of such suit in accordance with the provisions of this Act, or any other law for the time being in force.

Statement of Objects and Reasons

At present Financial Corporation and other Corporations owned or controlled by the State Government Companies and Nationalised and other Banks find it difficult for the speedy recovery of certain classes of dues payable to the State Government in the absence of specific legislation. The Talwar Committee appointed by the Government of India has recommended that the State Government should empower its officials, with authority to issue orders having the force of a decree of a civil court, for

payment of any sum to a Bank by sale of the property charged/mortgaged in favour of the bank. As such, Government thought it fit to move a legislation known as 'the Goa, Daman and Diu Public Moneys (Recovery of Dues) Act, 1986, for treating the arrears of Financial Corporation and other Corporations, owned or controlled by the State Government, Government Companies and Nationalised and other banks, as arrears of land revenue and to effect speedy recovery of dues.'

This Bills seeks to achieve the above purpose.

Financial Memorandum

The implementation of the proposed legislation when it becomes an Act will necessitate creation of some additional posts in the Union territory Administration involving an expenditure of Rs. 1.50 lakhs (approx.) (recurring). The actual requirement of the posts would be worked out after the Act has come into force.

Memorandum Regarding Delegated Legislation

Clause 6 of the Bill empowers the Government to make rules for the purpose of carrying out the provisions of the Act.

This delegation is of normal character.

Panaji,

SHAIKH HASSAN HAROON

14th July, 1986

Minister for Revenue

M. M. NAIK

Assembly Hall,

Secretary to the Legislative Assembly
of Goa, Daman and Diu

Panaji,
15th July, 1986

Administrator's recommendation under
Section 23 of Government of Union territories Act, 1963.

In pursuance of sub-section (1) and (3) of Section 23 of the Government of Union territories Act, 1963, the Administrator of Goa, Daman and Diu has recommended to the Legislative Assembly of Goa, Daman and Diu the introduction and consideration of the Goa, Daman and Diu Public Moneys (Recovery of Dues) Bill, 1986.